

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Khai Bui,

Petitioner-Appellant,

v.

Johnson County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 09-52-0639

Parcel No. 0303354005

On September 1, 2010, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Khai Bui, was self-represented, and presented evidence in support of his position. The Johnson County Board of Review designated Assistant County Attorney Andrew Chappell as its legal representative. The Appeal Board having reviewed the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

Bui is the owner of a residentially classified, single-family residence located at 2798 Jefferson Court NE, Swisher, Iowa. The property is a one-story home built in 2007, has 2427 square feet of total living area, a full unfinished basement, and an 1184 square-foot attached garage. The property also has two decks and two open porches. The site is 0.69 acres and a corner lot.

Bui protested to the Johnson County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of Bui's property was \$391,770 allocated as follows: \$68,670 in land value and \$323,100 in improvement value.

Bui's claim was based on the following grounds: 1) that the assessment is not equitable as compared with the assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); 2) that the property is assessed for more than the value authorized by law under section 441.37(1)(b), and; 3) that there is an error in the assessment under section 441.37(1)(c), asserting the basement was unfinished and that the total room and bedroom count were not correct. Bui sought a total assessed value of \$340,000. The Board of Review provided partial relief and reduced the January 1, 2009, total assessed value to \$373,770 allocated as follows: \$68,670 in land value and \$305,100 in improvement value.

In his appeal to this Board, Bui reasserted inequity and also asserted there has been a downward change in value since the last assessment under sections 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we will consider the claims of inequity and over-assessment. Bui again seeks a total assessed value of \$340,000.

Bui submitted a total of ten properties, four vacant sites and six improved sites, as equity and/or market value comparables.

Two of the vacant lots submitted by Bui are located at 2795 Jefferson Court and 2785 Sunset Court. The 2795 Jefferson Court property is a 0.81 acre site and has a 2009 assessment of \$54,240, however there is also a -20% influence factor applied. The 2785 Sunset Court property is a 0.58 acre site and has a 2009 assessment of \$46,120, however it also has a combined -30% influence factor applied. There was no testimony regarding why either site required -20 to -30% adjustments.

Two improved properties are located at 1228 James Avenue NE, and 2823 120th Street NE. These properties have total assessments of \$386,850 and \$344,150, respectively. The 1228 James Avenue NE property is a one-story home similar to Bui's property; however, it has a 2-5 grade factor,

was built in 2001, has 2902 square feet of above-grade living area, and a 1.97 acre site compared to Bui's property which has a 2-10 grade factor, was built in 2008, has a 2427 square-foot above-grade living area and a 0.69 acre site. The 2823 120th Street NE property is a two-story home, with a 3+5 grade factor, built in 1999, having 2719 square feet of above-grade living area, over 1500 square-feet of basement finish, and a 2.07 acre site.

While there was no direct analysis offered comparing these properties to the subject property, Bui's testimony showed his confusion as to why these properties, which have larger living areas and site sizes, would be assessed lower than his property. We note that 1228 James Avenue NE is assessed higher than the subject property with a total assessment of \$386,850, compared to the Bui's assessment of \$373,100. The 2823 120th Street NE has a total assessment of \$344,150, which is less than the Bui's assessment, however it is also a lower grade home with a 3+5 grade factor versus the subject property's 2-10 grade factor and was built in 1999, which would reflect more depreciation than Bui's home built in 2007.

The remaining six properties (two vacant lots and four improved properties) were attached to the appeal, however it is not clear that these properties were submitted to the Board of Review, as they are not referenced or documented within the Certification. The vacant sites range from 0.74 to 1.97 acres and have 2009 assessments of \$53,280 and \$43,480 respectively. The improved properties living area range in size from 1979 square feet to 2901 square feet, all have between 772 and 1277 square feet of basement finish, and are situated on 0.56 to 15.8 acre sites. They range in 2009 assessed value from \$315,920 to \$359,570. The supplied property printouts are limited in detail, the grade factors for these properties are unknown, and no analysis was made comparing these properties to the subject property. We give this information no consideration.

Bui did not submit sales for any of the properties or otherwise determine or develop a fair market value to support the claim of inequity by demonstrating the subject was assessed higher

proportionately to other like properties. Nor did Bui show assessment methods were not uniformly applied.

Bui also offered a document which he believes demonstrates a downward trend of sales or market value in the Swisher area. We give the charts/data submitted in Exhibit 1 no consideration, as they consider all properties in the 52338 Swisher zip code, and do not reflect only properties that would be like the subject property.

There were no comparisons made between the properties submitted as comparable and the subject property to adjust for differences and to support a market value opinion for a claim of over-assessment.

The Board of Review did not submit any additional evidence or testimony at hearing.

Based upon the record as a whole, the Appeal Board finds there is insufficient evidence to support the claims that the subject property is inequitably assessed or assessed at greater than market value.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Bui offered multiple properties as equity comparables, however no analysis of how these properties compared to the subject was made. Bui did not determine the market value of the properties to establish the subject property was indeed assessed higher proportionately. Nor did Bui show assessment methods were not uniformly applied.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Bui did not offer any evidence regarding market value of the comparables or of his property.

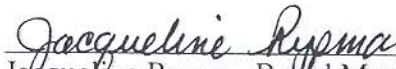
In the opinion of the Appeal Board, the evidence does not support Bui's claims. We, therefore, affirm the assessment of the subject property located at 2798 Jefferson Court, NE, Swisher, Iowa, as determined by the Johnson County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the Khai Bui's property, located at 2798 Jefferson Court, NE, Swisher, Iowa, as of January 1, 2009, set by the Johnson County Board of Review, is affirmed.

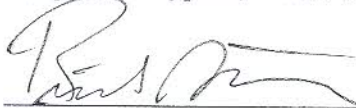
Dated this 13 day of October, 2010



Karen Oberman, Board Chair



Jacqueline Rypma, Board Member



Richard Stradley, Board Member

Cc:

Khai Bui
2798 Jefferson Court NE
Swisher, Iowa 52338
APPELLANT

Andy Chappell
417 S. Clinton
Iowa City, Iowa 52244
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-13</u> 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	